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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,659	09/05/2003	Tetsuo Shibanuma	09792909-5708	8320
26263	7590	08/03/2005	EXAMINER	
SONNENSCHEIN NATH & ROSENTHAL LLP			DAVIS, ZINNA NORTHINGTON	
P.O. BOX 061080			ART UNIT	PAPER NUMBER
WACKER DRIVE STATION, SEARS TOWER				
CHICAGO, IL 60606-1080			1625	
DATE MAILED: 08/03/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/656,659	SHIBANUMA ET AL.	
	Examiner Zinna Northington Davis	Art Unit 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 19 May 2005.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 14 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 05 September 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. 09/704,968.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

1. Claim 14 is pending. Claims 1-13 have been cancelled.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 19, 2005 has been entered.
3. The terminal disclaimer filed on May 19, 2005 has been reviewed and is accepted. The terminal disclaimer has been recorded.
4. Based upon the terminal disclaimer filed on May 19, 2005, the rejection of obviousness-type double patenting over copending Application No. 09/704,969 is withdrawn.
5. Based upon the Communications filed May 19, 2005, the rejection based upon 35 U.S.C. § 112, 2nd paragraph is withdrawn. The rejection based upon 35 U.S.C. § 103(a) over Sugihara in view of Daniel is withdrawn. However, a new rejection follows.
6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel et al (U.S. Patent 4,853,090, of record).

Daniel et al. teach a class of 1, 10-phenanthroline compounds which is substituted by R, R¹, R², R³, R⁴, R⁵, R⁶, and R'. At page 24, see the generic formula. Daniel et al teach 1) the equivalence of hydrogen, alkyl and substituted phenyl at R and R' and 2) the equivalence of hydrogen, alkyl and aryl at R¹, R², R³, R⁴, R⁵, R⁶, and R'.

The difference between the prior art compound and those instantly claimed is the Ar¹ and Ar² position, which is phenyl substituted by 2-, 3-, and 4-methyl.

Daniel et al. teach that the phenyl may be optionally substituted with alkyls. At column 6, see lines 5-38. An example of methyl-substituted phenyl is described at column 35, compound XXI; and column 37, compound XXVII. The skilled artisan would therefore be motivated to select from Daniel's compound by addition of methyl(s) to the phenyl to arrive at the instant invention because compounds of close structural relationship are expected to have similar activities.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zinna N. Davis whose telephone number is 571-272-0682.

9. The fax phone number for the organization where this application or proceeding is 703-872-9306 for regular communications.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Zirma Northington Davis
Primary Examiner
Art Unit 1625

Znd
08.01.2005